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AUG 15 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Geographic Partitioning and
Spectrum Disaggregation by
Commercial Mobile Radio Service
Licensees

and

Implementation of Section 257
of the Communications Act --
Elimination of Market Entry
Barriers

DOCKET FILE COPY ORIGINAL
WT Docket No. 96-148

GN Docket No. 96-113

To: The Commission

COMMENTS
OF THE
INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC.

The Industrial Telecommunications Association, Inc. ("ITA"), pursuant to the Federal Communications Commission's Notice of Proposed Rule Making in the above-referenced matter, hereby respectfully submits these Comments responsive to the Commission's proposal.¹

I. PRELIMINARY STATEMENT

1. ITA, formerly the Special Industrial Radio Service Association, Inc. (SIRSA), is an association organized under the laws of the District of Columbia. ITA is the Commission's

¹ Notice of Proposed Rule Making (FCC 96-287), WT Docket No. 96-148, GN Docket No. 96-113, adopted June 28, 1996, released July 15, 1996, (hereinafter "Notice").

certified frequency coordinator for the Special Industrial Radio Service and the Industrial/Land Transportation 421-430 MHz and 800/900 MHz frequency pools.

2. ITA enjoys the support of a membership that includes more than 6,500 private land mobile radio communications licensees and the following trade associations:

Alliance of Motion Picture and Television Producers
American Mining Congress
Associated Builders & Contractors, Inc.
Florida Citrus Processors Association
Florida Fruit & Vegetable Association
National Food Processors Association
National Propane Gas Association
National Ready-Mixed Concrete Association
National Utility Contractors Association
New England Fuel Institute
United States Telephone Association

II. BACKGROUND

3. In the Notice, the Federal Communications Commission proposes to modify the rules governing broadband personal communications systems to permit PCS licensees to:

(1) disaggregate spectrum and (2) partition their authorizations along county lines. The Commission anticipates that implementation of the disaggregation and partitioning proposals will eliminate entry barriers into the telecommunications market for small businesses and promote business opportunities for rural telephone companies and enterprises owned by members of minority groups and women.

4. In general, ITA is supportive of regulatory measures that will allow communications providers to offer localized services that are responsive to the specific requirements of consumers at the local community level. ITA supports disaggregation and partitioning initiatives for two primary reasons: *first*, partitioning and disaggregation will promote the introduction of PCS services more rapidly and over a larger area, with services specifically focused on the needs at the local level; *second*, the ability to partition and disaggregate spectrum will provide greater operational flexibility for PCS licensees and will provide a mechanism for non-licensees, who may have a different vision of the needs of the marketplace, to offer PCS service.

5. It has been ITA's experience that any effort to introduce greater flexibility in the use of the radio spectrum must be accompanied by a meaningful commitment to maintaining the data needed to manage the transactional process. In the case of broadband PCS partitioning and disaggregation, data will be required that enables potential "sub-licensees" to know which parties have spectrum available in their desired area of operation and the extent to which that spectrum may have already been partitioned or disaggregated. ITA believes it is imperative, as the Commission has suggested,² that there be private information clearinghouses to capture information relevant to partitioning and disaggregation agreements and disseminate that information to the

² Notice, paragraph 65.

public as necessary.

6. In ITA's view, the clearinghouse function will facilitate partitioning and disaggregation agreements and thereby help to promote more efficient use of the PCS spectrum.³ Accordingly, ITA supports the creation of an independent clearinghouse function for partitioning and disaggregation arrangements.

7. With respect to disaggregation, the Commission has proposed that PCS licensees be permitted to disaggregate their assigned spectrum in blocks of one megahertz or larger, as long as the disaggregating licensee retains a minimum of one megahertz.⁴ With respect to geographic partitioning, the Commission has proposed that PCS licensees be required to partition the assigned spectrum along county lines.⁵

8. The proposal to limit the quantity of spectrum to be disaggregated to minimum blocks of one megahertz seems to be reasonable. There may, however, be alternate minimum amounts that

³ In paragraph 64, the Notice envisions that new PCS entrants who gain spectrum through partitioning or disaggregation would be treated as any other PCS licensees for purposes of the relocation cost-sharing plan. This being the case, new PCS entrants likely will have to coordinate their activities with the PCS/microwave relocation clearinghouses designated by the Commission in its Memorandum Opinion and Order, WT Docket No. 95-157, adopted August 14, 1996.

⁴ Notice, paragraph 42.

⁵ Notice, paragraph 18.

would better promote licensee flexibility and facilitate optimum expansion of PCS services. On this issue of the minimum amount of spectrum that may be disaggregated, therefore, ITA reserves judgment until it has had the opportunity to assess the technical considerations raised by other commenters. ITA does note that it would not be efficient to require sub-licensees to purchase more spectrum than needed.

9. With respect to the minimum geographic territory that is suitable for partitioning, ITA believes that the Commission has an opportunity to promote a greater degree of flexibility than is reflected in its proposal. If PCS services are truly to be made available to towns and villages that may not present attractive business opportunities for the disaggregating licensee, service over areas smaller than a county should be permitted.

10. Many potential disaggregatees will require service over areas that are incongruent with county lines and may be significantly smaller than the size of a standard county. From ITA's perspective, it is neither efficient nor cost-effective to require a disaggregatee to purchase the rights to spectrum over a county-wide area when its actual service requirements are not consistent with county borders. Requiring service along county lines would impede flexibility and full utilization of the spectrum.

11. ITA is not persuaded that the Commission must require, by rule, adherence to county lines. ITA recognizes that the

Commission anticipates granting waivers in cases where a disaggreate desires to obtain spectrum along non-county lines. However, waivers are inherently time consuming and may pose an unwarranted hurdle to commercial transactions. ITA believes that partitioning should be permitted down to small area units.

12. ITA anticipates that sub-licensees may need to use spectrum within an area served by a very limited number of transmitter sites. Alternatively, sub-licensees may need to acquire the rights to use spectrum over a radius of operation from a given latitude and longitude, or perhaps as a rectangular area bounded by upper and lower lines of latitude and longitude. Regardless of the size of the desired area of operation, as long as the area can be defined with some precision, clearinghouses should easily be able to keep track of operating areas of diverse sizes and ensure that subsequent partitioning arrangements are not in conflict with earlier partitioning agreements.

WHEREFORE, THE PREMISES CONSIDERED, the Industrial Telecommunications Association, Inc. respectfully submits these

Comments and urges the Federal Communications Commission to act in accordance with the views expressed herein.

**INDUSTRIAL TELECOMMUNICATIONS
ASSOCIATION, INC.**

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Date: August 15, 1996